

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION

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Illinois Commerce Commission
RAIL SAFETY SECTION

Illinois Central Railroad Company,

Petitioner,

v.

Neoga Township, the City of Neoga and
the State of Illinois, Department of Transportation,

Respondents.

Petition of Illinois Central Railroad Company seeking an
order of closure of the at-grade crossings of Cemetery
Road/TR-67 (DOT 289 160P; railroad milepost 185 and
TR-85 (DOT 289 161W; railroad milepost 185.65) and the
Illinois Central Railroad Company's tracks, and an order of
installation of automatic flashers and gates at the crossing of
TR-85A (DOT 289 162D; railroad milepost 186.16) and the
Illinois Central Railroad Company's tracks, all in Neoga
Township, Cumberland County, Illinois.

TO5-0007

ANSWER AND COUNTERCLAIM BY RESPONDENT CITY OF NEOGA

ANSWER

Now comes Respondent City of Neoga ("Neoga"), and for its Answer to the Petition of
Illinois Central Railroad Company ("IC"), states as follows:

1. Admit.
2. Admit.
3. Respondent admits that Neoga Township is subject to the Commission's jurisdiction
solely to the extent and for the purposes set forth in the Public Utilities Act and the
Illinois Commercial Transportation Law.
4. Respondent admits that it is subject to the Commission's jurisdiction solely to the
extent and for the purposes set forth in the Public Utilities Act and the Illinois

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Commercial Transportation Law.

5. Respondent admits that IC seeks an order from the Commission closing the at-grade crossing of TR-67 and TR-85 and mandating the installation of automatic flashers and gates at the at-grade crossing of TR-85A, but denies that these are the sole measures sought by the IC in its petition.
6.
 - a. Admit.
 - b. Admit.
 - c. Respondent has insufficient information to admit or deny the allegations of par. 6(c), and therefore denies same.
 - d. Respondent has insufficient information to admit or deny the allegations of par. 6(d), and therefore denies same.
 - e. Respondent has insufficient information to admit or deny the allegations of par. 6(e), and therefore denies same.
 - f. Respondent has insufficient information to admit or deny the allegations of par. 6(e), and therefore denies same.
 - g. Admit.
 - h. Respondent has insufficient information to admit or deny the allegations of par. 6(h), and therefore denies same.
 - i. Respondent has insufficient information to admit or deny the allegations of par. 6(i), and therefore denies same.
 - j. Respondent objects to the imprecise and ambiguous use of the term “mostly”; answering further, Respondent admits that the types of vehicular traffic that

use the crossings include those listed by the Petitioner, but denies that Petitioner's list is complete or sufficiently representative.

k. Respondent objects to the imprecise and ambiguous use of the term "area of the crossings"; answering further, Respondent states that the Neoga Police Department may, under certain circumstances, have responsibility for emergency response in relatively close proximity to at least one of the crossings.

7. Respondent admits that IC proposes that a "connecting road" be built to the present TR-67 crossing location, but denies that the Commission has jurisdiction to modify the route; exercise eminent domain; require construction without adequate provision for maintenance or resurfacing; or alter the use of or connection to any street or road in derogation of Neoga Ordinances and without the permission of the City; answering further, Respondent asserts that there are utility poles in the path of, and insufficient room on the western portion of, the IC property to accommodate the construction of the roadway planned by IC, and that the description of the road is insufficient to allow further admission or denial, and therefore, Neoga denies the adequacy of IC's "connecting road" proposal.

8. Respondent admits that IC proposes that a "connecting road" be built from TR-85A to the present TR-85 crossing location, but denies that the Commission has jurisdiction to modify the route; exercise eminent domain; require construction without adequate provision for maintenance or resurfacing; or alter the use of or connection to any street or road in derogation of Neoga Ordinances and without the

permission of the City; answering further, Respondent asserts that there are utility poles in the path of, and insufficient room on the western portion of, the IC property to accommodate the construction of the roadway planned by IC, and that the description of the road is insufficient to allow further admission or denial, and therefore, Neoga denies the adequacy of IC's "connecting road" proposal.

COUNTERCLAIMS

Now comes Respondent City of Neoga, and for its Complaint/Counter-Claim against Illinois Central Railroad Company pursuant to 83 Ill. Adm. Code 200.170, states as follows:

1. Petitioner has failed to properly construct and maintain the at-grade crossings and approaches at TR-67 and TR-85 in such manner as to not interfere with the reasonably safe use of the roadways when traveled in the usual and ordinary manner, in violation of 92 Ill. Adm. Code 1535.203 and Section 18c-7401 of the Illinois Commercial Transportation Law, 625 ILCS 5/18c-1101 et seq., at 5/18c-7401.
2. Petitioner has failed to properly maintain the at-grade crossings and approaches at TR-67 and TR-85 in a reasonably safe condition as to persons and property, in violation of 92 Ill. Adm. Code 1535.206 and Section 18c-7401 of the Illinois Commercial Transportation Law, 625 ILCS 5/18c-1101 et seq., at 5/18c-7401.
3. Petitioner has so located its "passing track" as to result in prolonged obstruction of the roadways at TR-67 and TR-85, unreasonably and unnecessarily impairing the public safety and convenience, in violation of Section 18c-7401(c) of the Illinois Commercial Transportation Law (625 ILCS 5/18c-7401(c)).
4. Petitioner has failed to adequately install and maintain marking and warning devices

at grade crossings TR-67 and TR-85 in accordance with Subpart D of 92 Ill. Adm.

Code part 1535 (92 IAC 1535.300-1535.365).

RESPECTFULLY SUBMITTED,
CITY OF NEOGA

By: 

Carl M. Webber (ARDC No. 2954737)

By: 

Phillip R. Van Ness (ARDC No. 2889889)

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NEOGA\ANSWER & COUNTERCLM01-ICCT05-0007

CERTIFICATION

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure [735 ILCS 5/1-109], the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

A handwritten signature in cursive script, reading "Brenda Evans", is written over a horizontal line.

Brenda Evans, Clerk
City of Neoga

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